



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)	ORDER OF APPROVAL
ACCESS TRANSMISSION SERVICES, INC.)	
FOR RATIFICATION OF A MUNICIPAL)	
CONSENT GRANTED PURSUANT TO)	
<u>N.J.S.A. 48:3-19</u>)	DOCKET NO. TE94060285

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition filed with the Board of Public Utilities ("Board") pursuant to N.J.S.A. 48:2-14, Access Transmission Services, Inc. ("ATS" or "Petitioner") seeks Board approval of a municipal consent granted to ATS by the City of Jersey City ("Jersey City") regarding the attachment of ATS' fiber optic cable to poles owned and maintained by Verizon New Jersey, Inc. ("VNJ"), formerly known as Bell Atlantic –New Jersey, Inc. The consent of Jersey City was acquired pursuant to N.J.S.A. 48:3-19, which provides in pertinent part, that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of another person unless each person has a lawful right to maintain poles in such street, highway or public place."

Petitioner, a wholly-owned subsidiary of MCI Telecommunications Corporation ("MCI"), was previously authorized by the Board to provide competitive access services and interLATA high speed private line service. Petitioner is currently constructing a fiber optic link between New York City and Jersey City. A portion of this new installation will be attached to approximately 38 VNJ poles located in the public rights-of-way of Jersey City along Luis Munoz Marin Avenue pursuant to a pole attachment agreement previously entered into between ATS and VNJ.

In its petition, ATS asserted that since it does not provide service in New Jersey pursuant to a public utility franchise, it received consent from Jersey City pursuant to N.J.S.A. 48:3-19 rather than N.J.S.A. 48:2-14. ATS notes that N.J.S.A. 48:3-19 does not specify the form of the municipal consent that must be granted and that it is not clear that such consents must be approved by the Board under N.J.S.A. 48:2-14. Petitioner obtained a municipal consent by way of a formal resolution from the Council of Jersey City, designated as Resolution No. 94-455. In order to avoid any uncertainty as to the validity of this consent, ATS seeks approval of said consent under N.J.S.A. 48:2-14.

After appropriate notice, a public hearing in this matter was held before Edward D. Beslow, Esq., the Board's duly designated Hearing Examiner. No member(s) of the public attended the hearing and a review of the case file in this matter indicates that the Board has not received any correspondence opposing Petitioner's request. After review and consideration of the entire record in this matter, the Board **FINDS** that:

1. ATS is a wholly-owned subsidiary of MCI and is authorized by this Board to provide competitive access services and interLATA high speed private line service;
2. ATS is presently constructing a fiber optic link between New York City and the City of Jersey City, a portion of which will be attached to poles which are owned by VNJ and located in the public rights-of-way in Jersey City and which are subject to a pole attachment agreement previously entered into between ATS and VNJ;
3. Consent to attach cable to VNJ poles was granted to ATS by formal resolution of the Council of the City of Jersey City pursuant to N.J.S.A. 48:3-19; and
4. Approval of the municipal consent requested by ATS is necessary and proper for the public convenience and properly conserves the public interest by enhancing the telecommunications service provided by ATS.

Accordingly, pursuant to N.J.S.A. 48:2-14, the Board **HEREBY APPROVES** the consent granted by the Council of the City of Jersey City, through Resolution No. 94-455, for the attachment of fiber optic telecommunications cable by ATS to certain telephone poles which are owned by VNJ and located in the public right-of-way of the City of Jersey City.

DATED: 5/25/04

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

(signed)
JACK ALTER
COMMISSIONER

ATTEST:

(signed)
KRISTI IZZO
SECRETARY